

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

ROBERT JAMES WIELENGA, M.D.)

Physician's and Surgeon's)

Certificate No. G 81044)

Respondent)

Case No. 800-2016-023335

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 26, 2019.

IT IS SO ORDERED: June 26, 2019.

MEDICAL BOARD OF CALIFORNIA



Kristina D. Lawson, J.D., Chair
Panel B

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 BRIAN D. BILL
Deputy Attorney General
4 State Bar No. 239146
California Department of Justice
5 300 So. Spring Street, Suite 1702
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

14 **Robert James Wielenga, M.D.**
15 **10835 New Street**
Downey, Ca
16 **90241-3622**

17 **Physician's and Surgeon's Certificate No. G**
81044,

18 Respondent.

Case No. 800-2016-023335

OAH No. 2018061094

19
20 **STIPULATED SETTLEMENT AND**
21 **DISCIPLINARY ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 PARTIES

25 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
26 of California (Board). She brought this action solely in her official capacity and is represented in
27 this matter by Xavier Becerra, Attorney General of the State of California, by Brian D. Bill,
28 Deputy Attorney General.

2. Respondent ROBERT JAMES WIELENGA, M.D. (Respondent) is represented in
this proceeding by attorney Scott J. Harris, Esq., whose address is: 8383 Wilshire Boulevard,

1 Suite 210 Beverly Hills, California 90211

2 3. On or about April 19, 1995, the Board issued Physician's and Surgeon's Certificate
3 No. G 81044 to ROBERT JAMES WIELENGA, M.D. (Respondent). The Physician's and
4 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in
5 Accusation No. 800-2016-023335, and will expire on August 31, 2020, unless renewed.

6 JURISDICTION

7 4. Accusation No. 800-2016-023335 was filed before the Board, and is currently
8 pending against Respondent. The Accusation and all other statutorily required documents were
9 properly served on Respondent on March 5, 2018. Respondent timely filed his Notice of Defense
10 contesting the Accusation.

11 5. A copy of Accusation No. 800-2016-023335 is attached as exhibit A and incorporated
12 herein by reference.

13 ADVISEMENT AND WAIVERS

14 6. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in Accusation No. 800-2016-023335. Respondent has also carefully read,
16 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
17 Disciplinary Order.

18 7. Respondent is fully aware of his legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
20 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
21 to the issuance of subpoenas to compel the attendance of witnesses and the production of
22 documents; the right to reconsideration and court review of an adverse decision; and all other
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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27 //

28 //

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2016-023335, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima
7 facie case with respect to the charges and allegations in Causes of Discipline 1, 2, and 4, in the
8 Accusation, and that Respondent hereby gives up his right to contest those charges.

9 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
10 discipline as to Causes of Discipline 1, 2, and 4, and he agrees to be bound by the Board's
11 probationary terms as set forth in the Disciplinary Order below.

12 RESERVATION

13 12. The admissions made by Respondent herein are only for the purposes of this
14 proceeding, or any other proceedings in which the Medical Board of California or other
15 professional licensing agency is involved, and shall not be admissible in any other criminal or
16 civil proceeding.

17 CONTINGENCY

18 13. This stipulation shall be subject to approval by the Medical Board of California.
19 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
20 Board of California may communicate directly with the Board regarding this stipulation and
21 settlement, without notice to or participation by Respondent or his counsel. By signing the
22 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
23 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
24 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
25 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
26 action between the parties, and the Board shall not be disqualified from further action by having
27 considered this matter.

28 14. The parties understand and agree that Portable Document Format (PDF) and facsimile

1 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
2 signatures thereto, shall have the same force and effect as the originals.

3 15. Respondent agrees that if he ever petitions for early termination or modification of
4 probation, or if the Board ever petitions for revocation of probation, all of the charges and
5 allegations contained in Accusation No. 800-2016-023335 shall be deemed true, correct and fully
6 admitted by respondent for purposes of that proceeding or any other licensing proceeding
7 involving respondent in the State of California.

8 16. In consideration of the foregoing admissions and stipulations, the parties agree that
9 the Board may, without further notice or formal proceeding, issue and enter the following
10 Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 81044 issued
13 to Respondent ROBERT JAMES WIELENGA, M.D. is revoked. However, the revocation is
14 stayed and Respondent is placed on probation for three (3) years on the following terms and
15 conditions.

16 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
17 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
18 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
19 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
20 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
21 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
22 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
23 completion of each course, the Board or its designee may administer an examination to test
24 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
25 hours of CME of which 40 hours were in satisfaction of this condition.

26 2. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective
27 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
28 advance by the Board or its designee. Respondent shall provide the approved course provider

1 with any information and documents that the approved course provider may deem pertinent.
2 Respondent shall participate in and successfully complete the classroom component of the course
3 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
4 complete any other component of the course within one (1) year of enrollment. The prescribing
5 practices course shall be at Respondent's expense and shall be in addition to the Continuing
6 Medical Education (CME) requirements for renewal of licensure.

7 A prescribing practices course taken after the acts that gave rise to the charges in the
8 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
9 or its designee, be accepted towards the fulfillment of this condition if the course would have
10 been approved by the Board or its designee had the course been taken after the effective date of
11 this Decision.

12 Respondent shall submit a certification of successful completion to the Board or its
13 designee not later than 15 calendar days after successfully completing the course, or not later than
14 15 calendar days after the effective date of the Decision, whichever is later.

15 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
16 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
17 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
18 Respondent shall participate in and successfully complete that program. Respondent shall
19 provide any information and documents that the program may deem pertinent. Respondent shall
20 successfully complete the classroom component of the program not later than six (6) months after
21 Respondent's initial enrollment, and the longitudinal component of the program not later than the
22 time specified by the program, but no later than one (1) year after attending the classroom
23 component. The professionalism program shall be at Respondent's expense and shall be in
24 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

25 A professionalism program taken after the acts that gave rise to the charges in the
26 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
27 or its designee, be accepted towards the fulfillment of this condition if the program would have
28 been approved by the Board or its designee had the program been taken after the effective date of

1 this Decision.

2 Respondent shall submit a certification of successful completion to the Board or its
3 designee not later than 15 calendar days after successfully completing the program or not later
4 than 15 calendar days after the effective date of the Decision; whichever is later.

5 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
6 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
7 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
8 licenses are valid and in good standing, and who are preferably American Board of Medical
9 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
10 relationship with Respondent, or other relationship that could reasonably be expected to
11 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
12 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
13 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

14 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
15 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
16 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
17 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
18 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
19 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
20 signed statement for approval by the Board or its designee.

21 Within 60 calendar days of the effective date of this Decision, and continuing throughout
22 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
23 make all records available for immediate inspection and copying on the premises by the monitor
24 at all times during business hours and shall retain the records for the entire term of probation.

25 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
26 date of this Decision, Respondent shall receive a notification from the Board or its designee to
27 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
28 shall cease the practice of medicine until a monitor is approved to provide monitoring

1 responsibility.

2 The monitor(s) shall submit a quarterly written report to the Board or its designee which
3 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
4 are within the standards of practice of medicine and whether Respondent is practicing medicine
5 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
6 that the monitor submits the quarterly written reports to the Board or its designee within 10
7 calendar days after the end of the preceding quarter.

8 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
9 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
10 name and qualifications of a replacement monitor who will be assuming that responsibility within
11 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
12 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
13 notification from the Board or its designee to cease the practice of medicine within three (3)
14 calendar days after being so notified. Respondent shall cease the practice of medicine until a
15 replacement monitor is approved and assumes monitoring responsibility.

16 In lieu of a monitor, Respondent may participate in a professional enhancement program
17 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
18 review, semi-annual practice assessment, and semi-annual review of professional growth and
19 education. Respondent shall participate in the professional enhancement program at
20 Respondent's expense during the term of probation.

21 This condition shall terminate upon 1) Respondent's successful completion of two (2)
22 years of probation, and 2) The practice monitor's submission of eight positive quarterly
23 evaluations.

24 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
25 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
26 Chief Executive Officer at every hospital where privileges or membership are extended to
27 Respondent, at any other facility where Respondent engages in the practice of medicine,
28 including all physician and locum tenens registries or other similar agencies, and to the Chief

1 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
2 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
3 calendar days.

4 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

5 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
6 NURSES. During probation, Respondent shall only be permitted to supervise up to two
7 physician assistants, or advanced practice nurses, or a combination thereof, at any time.

8 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
9 governing the practice of medicine in California and remain in full compliance with any court
10 ordered criminal probation, payments, and other orders.

11 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
12 under penalty of perjury on forms provided by the Board, stating whether there has been
13 compliance with all the conditions of probation.

14 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
15 of the preceding quarter.

16 9. GENERAL PROBATION REQUIREMENTS.

17 Compliance with Probation Unit

18 Respondent shall comply with the Board's probation unit.

19 Address Changes

20 Respondent shall, at all times, keep the Board informed of Respondent's business and
21 residence addresses, email address (if available), and telephone number. Changes of such
22 addresses shall be immediately communicated in writing to the Board or its designee. Under no
23 circumstances shall a post office box serve as an address of record, except as allowed by Business
24 and Professions Code section 2021(b).

25 Place of Practice

26 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
27 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
28 facility.

1 License Renewal

2 Respondent shall maintain a current and renewed California physician's and surgeon's
3 license.

4 Travel or Residence Outside California

5 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
6 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
7 (30) calendar days.

8 In the event Respondent should leave the State of California to reside or to practice,
9 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
10 departure and return.

11 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
12 available in person upon request for interviews either at Respondent's place of business or at the
13 probation unit office, with or without prior notice throughout the term of probation.

14 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
15 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
16 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
17 defined as any period of time Respondent is not practicing medicine as defined in Business and
18 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
19 patient care, clinical activity or teaching, or other activity as approved by the Board. If
20 Respondent resides in California and is considered to be in non-practice, Respondent shall
21 comply with all terms and conditions of probation. All time spent in an intensive training
22 program which has been approved by the Board or its designee shall not be considered non-
23 practice and does not relieve Respondent from complying with all the terms and conditions of
24 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
25 on probation with the medical licensing authority of that state or jurisdiction shall not be
26 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
27 period of non-practice.

28 In the event Respondent's period of non-practice while on probation exceeds 18 calendar

1 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
2 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
3 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
4 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

5 Respondent's period of non-practice while on probation shall not exceed two (2) years.

6 Periods of non-practice will not apply to the reduction of the probationary term.

7 Periods of non-practice for a Respondent residing outside of California will relieve
8 Respondent of the responsibility to comply with the probationary terms and conditions with the
9 exception of this condition and the following terms and conditions of probation: Obey All Laws;
10 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
11 Controlled Substances; and Biological Fluid Testing.

12 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
13 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
14 completion of probation. Upon successful completion of probation, Respondent's certificate shall
15 be fully restored.

16 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
17 of probation is a violation of probation. If Respondent violates probation in any respect, the
18 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
19 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
20 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
21 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
22 be extended until the matter is final.

23 14. LICENSE SURRENDER. Following the effective date of this Decision, if
24 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
25 the terms and conditions of probation, Respondent may request to surrender his or her license.
26 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
27 determining whether or not to grant the request, or to take any other action deemed appropriate
28 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent

1 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
2 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
3 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
4 application shall be treated as a petition for reinstatement of a revoked certificate.

5 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
6 with probation monitoring each and every year of probation, as designated by the Board, which
7 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
8 California and delivered to the Board or its designee no later than January 31 of each calendar
9 year.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Scott J. Harris, Esq.. I understand the stipulation and the effect it
13 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
14 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
15 Decision and Order of the Medical Board of California.

16
17
18 DATED: _____

19 ROBERT JAMES WIELENGA, M.D.
Respondent

20 I have read and fully discussed with Respondent ROBERT JAMES WIELENGA, M.D. the
21 terms and conditions and other matters contained in the above Stipulated Settlement and
22 Disciplinary Order. I approve its form and content.

23
24
25 DATED: _____

26 SCOTT J. HARRIS, ESQ.
Attorney for Respondent

27 //

28 //

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2 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
3 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
4 application shall be treated as a petition for reinstatement of a revoked certificate.

5 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
6 with probation monitoring each and every year of probation, as designated by the Board, which
7 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
8 California and delivered to the Board or its designee no later than January 31 of each calendar
9 year.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Scott J. Harris, Esq.. I understand the stipulation and the effect it
13 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
14 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
15 Decision and Order of the Medical Board of California.

16
17
18 DATED: 1/24/2019


ROBERT JAMES WIELENGA, M.D.
Respondent

20 I have read and fully discussed with Respondent ROBERT JAMES WIELENGA, M.D. the
21 terms and conditions and other matters contained in the above Stipulated Settlement and
22 Disciplinary Order. I approve its form and content.

23
24
25 DATED: 1/24/19


SCOTT J. HARRIS, ESQ.
Attorney for Respondent

27 //

28 //


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 1-25-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



BRIAN D. BILL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-023335

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 BRIAN D. BILL
Deputy Attorney General
4 State Bar No. 239146
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6461
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *March 5 2018*
BY *K. Voong* ANALYST

8 BEFORE THE
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2016-023335

12 ROBERT JAMES WIELENGA, M.D.
10835 New Street
13 Downey, CA 90241-3622

ACCUSATION

14 Physician's and Surgeon's Certificate
No. G 81044,

15
16 Respondent.

17 Complainant alleges:

18 PARTIES

19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board).

22 2. On or about April 19, 1995, the Medical Board issued Physician's and Surgeon's
23 Certificate Number G 81044 to Robert James Wielenga, M.D. (Respondent). The Physician's and
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein
25 and will expire on August 31, 2018, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2234 of the Code, states:

2 “The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
4 limited to, the following:

5 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
6 violation of, or conspiring to violate any provision of this chapter.

7 “(b) Gross negligence.

8 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
9 omissions. An initial negligent act or omission followed by a separate and distinct departure from
10 the applicable standard of care shall constitute repeated negligent acts.

11 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
12 for that negligent diagnosis of the patient shall constitute a single negligent act.

13 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
14 constitutes the negligent act described in paragraph (1), including, but not limited to, a
15 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
16 applicable standard of care, each departure constitutes a separate and distinct breach of the
17 standard of care.

18 “(d) Incompetence.

19 “(e) The commission of any act involving dishonesty or corruption which is substantially
20 related to the qualifications, functions, or duties of a physician and surgeon.

21 “(f) Any action or conduct which would have warranted the denial of a certificate.

22 “(g) The practice of medicine from this state into another state or country without meeting
23 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
24 apply to this subdivision. This subdivision shall become operative upon the implementation of
25 the proposed registration program described in Section 2052.5.

26 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
27 participate in an interview by the board. This subdivision shall only apply to a certificate holder
28 who is the subject of an investigation by the board.”

1 5. Section 2238 of the Code states:

2 "A violation of any federal statute or federal regulation or any of the statutes or regulations
3 of this state regulating dangerous drugs or controlled substances constitutes unprofessional
4 conduct."

5 6. Section 2264 of the Code states:

6 "The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person
7 or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any
8 other mode of treating the sick or afflicted which requires a license to practice constitutes
9 unprofessional conduct."

10 **FACTUAL ASSERTIONS**

11 7. On or about May 20, 2016, Patient 1 submitted a prescription for Norco,¹ dated May
12 20, 2016, to pharmacist L.N. for filling and delivery. The prescription appeared to be authorized
13 by Respondent's signature. On or about May 20, 2016, L.N. had reservations regarding the
14 signature on the prescription. As such, L.N. contacted Respondent's office via telephone to verify
15 the prescription.

16 8. On or about May 20, 2016, L.N. spoke to Respondent's employee, M.J. regarding the
17 validity of the signature. M.J. told L.N. that Respondent was not in the office. Further, M.J. told
18 L.N. that Respondent allows unlicensed staff to sign his name on prescriptions on Fridays when
19 he is not in the office.

20 9. Based upon the May 20, 2016 telephone call, L.N. researched prior prescriptions
21 submitted to her that were signed by Respondent. L.N. discovered a prescription dated November
22 24, 2015, that appeared to have a signature that was different from the May 20, 2016 prescription.

23 10. L.N. faxed both the May 20, 2016 and the November 24, 2015 prescriptions to M.J. at
24 Respondent's office. L.N. asked M.J. to identify the two signatures. M.J. told L.N. that the
25 November 24, 2015 signature was Respondent's and the May 20, 2016 signature belonged to a
26 staff member.

27 ¹ Norco is a controlled substance that is a combination of acetaminophen and hydrocodone
28 (an opioid). Norco is used to relieve moderate to moderately severe pain.

1 11. L.N. informed M.J. that only a licensed physician can sign prescriptions. L.N.
2 explained the same to Patient 1. L.N. refused to fill the May 20, 2016 prescription.

3 12. L.N. conducted additional research regarding prior prescriptions purportedly signed
4 by Respondent. L.N. discovered several prescriptions with different signatures.

5 13. On or about June 7, 2016, L.N. submitted a complaint to the Board regarding
6 Respondent's practice of allowing staff to sign his prescriptions.

7 14. On or about March 6, 2017, Board Investigator F.G. interviewed Patient 2 who stated
8 the following:

9 a. Patient 2 was a patient of Respondent's for approximately four years;

10 b. Patient 2 felt rushed when being treated by Respondent, appointments typically last
11 five minutes or less;

12 c. Patient 2 has seen two separate staff members sign prescriptions for Respondent;
13 and

14 d. Pharmacists have refused to fill his prescriptions written on Respondent's
15 prescription pads.

16 15. On or about May 5, 2017, Respondent was interviewed by the Board. During the
17 interview, Respondent stated the following:

18 a. His practice is extremely busy;

19 b. His practice "struggled" with the change in the laws regarding controlled substance
20 prescription refills. In order to cope with the change, his staff members would, at times, complete
21 the patient information and/or the medication to be prescribed on the prescription. Respondent
22 would then review and sign the prescription;

23 c. Respondent initially stated that he never allowed staff members to sign
24 prescriptions on his behalf. However, after further reflection, Respondent recalled one instance in
25 which he was extremely busy and asked his staff member to "just sign his name;" and

26 d. Respondent cannot rule out other instances of staff signing prescriptions.

27 16. On or about June 29, 2017, Respondent's former Nurse Practitioner, M.M., was
28 interviewed by a Board investigator. M.M. stated that between July 2015 and August 2016, she

1 observed medical assistants sign Respondent's name on prescriptions. M.M. also observed that
2 during the winter of 2015, Respondent was not present in the office on Fridays. During this
3 period, the "pharmacy employee"² of the practice would fill out and sign Respondent's name on
4 prescriptions for patients requesting refills of medications. This practice was specifically
5 approved by Respondent. After the complaint by Pharmacist L.N., Respondent instituted a
6 system of pre-signing prescriptions for patient's seeking refills of medications, including
7 controlled substances. The "pharmacy employee" would take possession of the pre-signed
8 prescriptions, complete the patient information and drug to be prescribed, and would deliver the
9 prescription to the patient. M.M. observed several pre-signed prescriptions in an unsecured
10 location in the office. Respondent only asked or directed medical assistants to sign his name on
11 prescriptions. She and another nurse practitioner, M.A., discussed their concerns regarding
12 Respondent's prescription practice/policy with the office manager. These concerns were
13 dismissed as the issuance of prescription policy was specifically ordered by Respondent.

14 17. On or about July 13, 2017, Respondent's currently employed Nurse Practitioner,
15 M.A., was interviewed by a Board investigator. M.A. believes that Respondent's staff were
16 allowed to sign Respondent's name on prescriptions in his absence. Further, during her
17 employment at Respondent's practice, M.A. observed blank prescription pads that were pre-
18 signed by Respondent.

19 18. On or about July 21, 2017, Respondent's former Medical Assistant, M.J. was
20 interviewed by a Board investigator. During that interview, M.J. stated that beginning in
21 approximately 2011 through May 2017, she personally signed Respondent's name to prescriptions
22 over 30 times, and that was the normal course for medical assistants working in the "pharmacy"
23 area of Respondent's practice. Finally, M.J. stated that she admitted to L.N. that Respondent
24 allows Medical Assistants to sign his name.

25 19. On or about July 26, 2017, Respondent's former Medical Assistant, L.M., was
26 interviewed by a Board investigator. L.M. stated that between January 2016 and November 2016,

27 _____
28 ² A staff member charged with handling prescription refill requests.

1 she signed Respondent's name on prescriptions about 30 times, and she was told to do so by other
2 staff members. Additionally, L.M. stated that the office management wanted to keep the practice
3 of staff members signing prescriptions a secret.

4 20. On or about August 29, 2017, Respondent was interviewed by a Board investigator
5 for a second time. During that interview, Respondent stated the following:

6 a. During the period of approximately 2015 through 2017, when out of the office for
7 an extended period of time, he typically pre-signs approximately 8-15 blank prescriptions for his
8 staff in order to cover any refill requests for controlled substances. Respondent stated that this
9 occurred approximately every three months.

10 b. Respondent admitted that the prescription refill aspect of his practice was poorly
11 managed.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 21. Respondent Robert James Wielenga, M.D. is subject to disciplinary action under
15 sections 2234, subdivision (a), and 2238 of the code, in that Respondent allowed unlicensed staff
16 members to sign and issue prescriptions, pre-signed prescriptions, and provided false statements
17 to the Board. The circumstances are as follows:

18 a. The factual allegations contained in paragraphs 7 through 20 are incorporated
19 herein by reference as if fully set forth.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Repeated Acts of Negligence)**

22 22. Respondent Robert James Wielenga, M.D. is subject to disciplinary action under
23 section 2234, subdivision (c) in that Respondent allowed unlicensed staff members to sign and
24 issue prescriptions and pre-signed prescriptions. The circumstances are as follows:

25 a. The factual allegations contained in paragraphs 7 through 20 are incorporated
26 herein by reference as if fully set forth.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Dishonesty)**

3 23. Respondent Robert James Wielenga, M.D. is subject to disciplinary action under
4 section 2234 subdivision (e) in that Respondent provided false statements to the Board. The
5 circumstances are as follows:

6 a. The factual allegations contained in paragraphs 7 through 20 are incorporated
7 herein by reference as if fully set forth.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Aiding and Abetting the Unlicensed Practice of Medicine)**

10 24. Respondent Robert James Wielenga, M.D. is subject to disciplinary action under
11 section 2264 of the code in that Respondent directed unlicensed staff members to sign and issue
12 prescriptions. The circumstances are as follows:

13 a. The factual allegations contained in paragraphs 7 through 20 are incorporated
14 herein by reference as if fully set forth.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

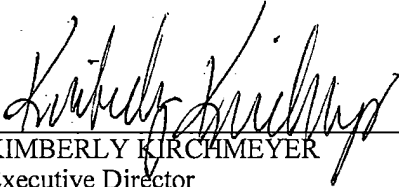
4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 81044,
5 issued to Robert James Wielenga, M.D.;

6 2. Revoking, suspending or denying approval of Robert James Wielenga, M.D.'s
7 authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Robert James Wielenga, M.D., if placed on probation, to pay the Board the
9 costs of probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.
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13
14 DATED: March 5, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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